

Federal Maritime Commission

§ 514.15

appears. It is very similar to the ATFI TARIFF LINE ITEM DETAIL screen in paragraph (b) of this section, except that the retrieving operator enters the actual shipment data in the appropriate fields. Once these data are en-

tered and verified, the operator presses another "Calc" key and screens similar to the following simulated screens ("ATFI RATING RESULTS," (i) and (ii)) are used to show the "Total Freight" ("bottom-line freight"):

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[§ 514.13(c)(2)(i)]
      ATFI RATING RESULTS
XYZ Line Worldwide Commodity Tariff
  ( XYZZ001 )

Commodity: Electric trains
      TLI: 9503-10-0010-0001

Actual weight: 0.000 KT
Actual volume: 0.000 CBM

      Rate Break Table
-----
2,310.00USD/ PC <--- Selected Rate

=== Establishing Rating Values
              (Cycle 0) ===

=== Establishing Ocean Freight
              (Cycle 1) ===

Basic Ocean Freight      2,310.00USD
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[§ 514.13(c)(2)(ii)]
      ATFI RATING RESULTS
XYZ Line Worldwide Commodity Tariff
  ( XYZZ001 )

Freight Basis is PC
Shipment Rated at      2,310.00USD
Shipment Freight as    1 CTR

=== Beginning Rating ===

Basic Ocean Freight      2,310.00USD
Paris surcharge          100.00USD
-----
Subtotal                  2,410.00USD

CAF                        163.26USD
-----
Total Freight            2,573.26USD

===== End of Rating Results =====
```

(3) The bottom-line rate calculation facilitates estimation of the total charges for the shipment. However, "Total Freight" may not always be the freight paid by the shipper because of operator error or the application of other assessorial charges which were not in algorithm form because they could not be determined prior to shipment, e.g., detention charges. Such non-predeterminable charges, however, would be flagged for the retriever as potential charges through the dummy algorithm feature under § 514.10(d)(1)(iv).

(4) For the basic ocean freight rate and each item that may be added to it to find the overall cost, a proof screen may be used for verification after the calculation.

§ 514.14 [Reserved]

§ 514.15 Tariff Rules.

(a) *General.* (1) This section requires the electronic filing of certain tariff matter other than the major ATFI objects (TLIs, etc.) addressed elsewhere in this part, which in any way affects the application of the tariff or is related to tariff objects, as prescribed in this part. Matter required to be filed by this section shall be contained in the ATFI tariff, either:

(i) In mandatorily numbered and titled Tariff Rules under paragraph (b) of this section; or

(ii) Where the listed mandatory subjects of Tariff Rules would not include a specific proposed rule or other tariff matter of the filer, in optional Tariff

Rules under paragraph (c) of this section, with the filer selecting the number (beginning with number 100) and title.

(2) *Algorithms and text.* (i) Where the Tariff Rule directly affects a commodity or TLI, e.g., by the addition of a surcharge for certain conditions, the assessorial charge calculation/condition statement (and assessorial table, where applicable) shall be set forth in the Tariff Rule as an algorithm if determinable prior to shipment. This algorithm shall be electronically linked to each tariff item to which it applies, as described in § 514.10(d) and in the ATFI Batch Filing Guide and ATFI Tariff Filing Guide.

(ii) Contents of Tariff Rules other than algorithms shall be entered in full-text format, be clear, explicit and complete, and be linked to appropriate items through the dummy algorithm functionality described in § 514.10(d)(1)(iv).

(3) *Application of rule.* Where a Tariff Rule affects only particular items, each affected item, e.g., commodity description, TLI, etc., shall specifically refer and be linked to such rule, as described in the ATFI Batch Filing and ATFI Tariff Filing Guides.

(4) *Subrules.* Where the subject or title of a Tariff Rule permits, obviously-related subrules may be used.

(5) *Rules tariffs.* Tariff Rules may also be contained in separate tariffs, as described in § 514.12.

(6) *Rule Access Window.* ATFI's Rule Access Window lists by Tariff Rule number and title all of the Tariff Rules contained in a particular tariff.

(b) *Mandatory Tariff Rules.* Specific Tariff Rules affecting the tariff, and/or other materials required by this part to be included in Tariff Rules, shall be contained in the appropriate Tariff Rules, as designated by the numbers and titles specified in this paragraph. Where notes to commodity descriptions and/or TLIs contain matter that would otherwise be normally contained in Tariff Rules, the applicable Tariff Rule(s) need not duplicate such matter but may simply indicate that the tariff is structured in this manner. In the event that a particular title contained in this paragraph does not apply to any matter affecting the tariff, the rule

number and title shall be entered with a statement that the rule is not applicable ("N/A"). See § 514.12(a)(i). Tariff matter obviously falling within a particular title may not be contained in another, less descriptive title and, where a mandatory subject under this paragraph is not applicable, the tariff matter shall be filed in an optional rule under paragraph (c) of this section, with the appropriate title. Mandatory Tariff Rule (and subparagraph) numbers, titles, content (as also may be required by other sections of this part, cross referenced in this paragraph) are as follows:

(1) *Scope.* As described in § 514.11(b)(10), the Tariff Record's scope is briefly set forth in location and/or location group pairs for origin and destination. Tariff Rule 1 shall be consistent with the Tariff Record scope, but describe it in complete detail, especially for the following types of tariffs or tariff items:

(i) *Foreign and domestic (offshore) commodity tariffs.*

(ii) *Equipment interchange tariffs* under § 514.12(b)(3)(ii).

(iii) *Intermodal services.*

(A) Tariff Rule 1 shall describe the modes of intermodal service provided (e.g., rail, truck, etc.).

(B) Tariff Rule 1 shall indicate whether the tariff TLIs are "through rates," which include the rates for all services on the overall route, are combination rates to which rate(s) for other transportation must be added, or both.

(C) Common carriers and conferences which publish more than one intermodal rate tariff from, to or between the same points, ports or regions, based on mode of service, description of commodities, etc., shall provide in Tariff Rule 1 of each respective tariff a cross-reference to the FMC number and description of the application of such other tariff(s).

(D) Tariff Rule 1 shall include a description of any alternate port service, or other substituted service, intended to be offered. If this service falls within the definition of "transshipment," Tariff Rule 1 shall cross-reference Tariff Rule 13, where transshipment services are described.

(E) TLIs involving intermodal service shall include an appropriate statement to this effect in the applicable commodity description record(s) and/or TLI notes under § 514.13, but all rates and charges affecting the TLI shall be entered in the proper form in the Applicable Assessorial Charges section and/or inland rate tables.

(F) If a carrier or conference desires to provide intermodal transportation to or from named points at combination rates, it shall clearly and accurately set forth the applicable charges in the ATFI "Inland Rate Tables" file. Other tables, similar to inland rate tables in that they result in the addition of amounts to TLIs, such as surcharges (assessorials), may be constructed in algorithm format under § 514.10(d) and paragraph (a) of this section. The ATFI "Batch Filing Guide" and the ATFI Tariff Filing Guide provide details on the data creation and filing requirements for inland rate tables, as well as for Tariff Rules' tables.

(2) *Application of rates and charges.* Tariff Rule 2 shall contain a clear and definite statement of:

- (i) All services provided to the shipper and covered by the TLIs, including the rate bases set forth in §§ 514.13(b)(17)(ii) and (b)(17)(iv)(A); and
- (ii) The extent of any limitation or restriction, if the application of any of the rates, charges, Tariff Rules or regulations stated in the tariff is restricted to any particular port, pier, etc.

(3) *Rate applicability rule.* Tariff Rule 3 shall contain a clear and definite statement of the time at which tariff changes become applicable to any particular shipment, including the following:

(i) *In foreign commerce*, the tariff rates, Tariff Rules and charges applicable to a given shipment must be those published and in effect on the date the cargo is received by the common carrier or its agent (including originating carriers in the case of rates for through transportation).

(ii) *In domestic offshore commerce*, for joint rates in intermodal transportation, the rate applicable to any particular cargo movement shall be that rate which is in effect on the day the initiating carrier takes possession of the shipment.

(4) *Heavy lift.* Tariff Rule 4 shall contain a clear and definite statement of all heavy lift practices and charges.

(5) *Extra length.* Tariff Rule 5 shall contain a clear and definite statement of all extra length practices and charges.

(6) *Minimum bill of lading charges.* Tariff Rule 6 shall contain a clear and definite statement of minimum bill of lading charges and applicability.

(7) *Payment of freight charges.* Tariff Rule 7 shall contain a clear and definite statement of:

(i) All requirements for the payment of freight charges;

(ii) Currency restrictions, if any, and the basis for determining the rates of currency exchange (see § 514.10(c)); and

(iii) If credit is extended to shippers, the credit terms available and the conditions upon which credit is extended. In foreign commerce, when credit applications or agreements are required, specimens of such applications or agreements shall be filed as part of this Tariff Rule.

(8) *Bill(s) of lading.* Unless a governing bill of lading tariff has been filed under § 514.12(a)(1)(iv), Tariff Rule 8 shall contain all clauses of every applicable specimen copy of any bill of lading, contract of affreightment, and other document (except for a service contract and its essential terms under §§ 514.7 and 514.17) evidencing the transportation agreement between carrier and shipper. Such shipping contracts shall indicate that they are subject to the terms and conditions of the carrier's Federal Maritime Commission tariffs and may not contain provisions inconsistent with the Tariff Rules and regulations published in any applicable tariff.

(9) *Freight forwarder compensation.* Tariff Rule 9 shall contain a clear and definite statement of:

(i) *In foreign commerce*, the rate or rates of compensation to be paid to licensed ocean freight forwarders on United States export shipments in accordance with § 510.23(b) of this chapter.

(ii) *In domestic offshore commerce*, the exact rate or rates, if any, to be paid ocean freight forwarders (see also § 510.23(d) of this chapter).

(10) *Surcharges and arbitraries.* Tariff Rule 10 shall contain algorithms and explanatory text of surcharges and arbitraries for items not elsewhere provided for in this section. Rates from or to designated ports may be established by applying an arbitrary or differential charge based upon the rate applicable to a specified “base port,” provided that any such arbitrary or differential is clearly defined, set forth as an algorithm (with table, if necessary) and is referenced (linked) in the commodity description or TLI affected.

(11) *Minimum quantity rates.* See also § 514.13(a)(2)(i)(C). Tariff Rule 11 shall state:

(i) *For foreign commerce:*

When two or more TLIs are named for the same commodity over the same route and under similar conditions, and the application is dependent upon the quantity of the commodity shipped, the total freight charges assessed against the shipment may not exceed the total charges computed for a larger quantity, if the TLI specifying a required minimum quantity (either weight or measurement per container or in containers), will be applicable to the contents of the container(s), and if the minimum set forth is met or exceeded. At the shipper’s option, a quantity less than the minimum level may be freighted at the lower TLI if the weight or measurement declared for rating purposes is increased to the minimum level.

(ii) *For domestic offshore commerce:*

When two or more TLIs are named for the same commodity, and the application is dependent upon the quantity of the commodity shipped, the charges assessed against the smaller shipment may not exceed those for any larger quantity.

(12) *Ad Valorem Rates.* Tariff Rule 12 shall contain a clear and definite statement of:

(i) The method of computing an *ad valorem* TLI or charge, to the extent not included elsewhere in the tariff (e.g., in connection with a TLI under § 514.13(b)(17)(i)); and

(ii) The additional liability, if any, assumed by the tariff owner in consideration for the *ad valorem* rate or charge.

(13) *Transshipment.* When transshipment services are offered pursuant to an ongoing agreement, Tariff Rule 13 shall contain:

(i) The through rate;

(ii) The routings (origin, transshipment and destination ports); additional charges, if any (e.g., port arbitrary and/or additional transshipment charges); and participating carriers; and

(iii) A provision substantially as follows:

The Tariff Rules, regulations and rates in this tariff apply to all transshipment arrangements between the publishing carrier or carriers and the participating connecting or feeder carrier. Every participating connecting or feeder carrier, which is a party to transshipment arrangements, has agreed to observe the Tariff Rules, regulations, rates, and routings established herein as evidenced by a connecting carrier agreement between the parties.

(14) *Co-Loading in foreign commerce.* Tariff Rule 14 governs co-loading by NVOCCs in foreign commerce and shall contain the following provisions:

(i) *Filing requirements.* (A) If an NVOCC does not tender cargo for co-loading, Tariff Rule 14 shall so indicate.

(B) If two or more NVOCCs enter into an agreement which establishes a carrier-to-carrier relationship for the co-loading of cargo, then the existence of such agreement shall be noted in Tariff Rule 14.

(C) If two NVOCCs enter into a co-loading arrangement which results in a shipper-to-carrier relationship, the tendering NVOCC shall describe in Tariff Rule 14 its co-loading practices and specify its responsibility to pay any charges for the transportation of the cargo. A shipper-to-carrier relationship shall be presumed to exist where the receiving NVOCC issues a bill of lading to the tendering NVOCC for carriage of the co-loaded cargo.

(ii) *Documentation requirements.* NVOCCs which tender cargo to another NVOCC for co-loading, whether under a shipper-to-carrier or carrier-to-carrier relationship, shall annotate each applicable bill of lading with the identity of any other NVOCC to which the shipment has been tendered for co-loading. Such annotation shall be shown on the face of the bill of lading in a clear and legible manner.

(iii) *Co-loading rates.* No NVOCC may offer special co-loading rates for the exclusive use of other NVOCCs. If cargo

is accepted by an NVOCC from another NVOCC which tenders that cargo in the capacity of a shipper, it must be rated and carried under tariff provisions which are available to all shippers.

(15) *Open rates in foreign commerce.* Tariff Rule 15 of a conference tariff shall contain a clear and definite statement of:

(i) The meaning of the word "open" in "open rates," and the extent to which conference rates have been opened pursuant to § 514.13(b)(19)(ii);

(ii) Any restriction or limitation on the right of participating common carriers to fix their own rate items, and the extent to which applicable Tariff Rules and regulations of the conference tariff will continue to govern the rates filed by each individual line; and

(iii) Where the rates of the individual conference member lines on open-rated items may be found.

(16) *Hazardous cargo.* When TLIs for explosive, inflammable, corrosive, or other dangerous materials are published (or Tariff Rule 16 does not specifically prohibit carriage of such materials), Tariff Rule 16 shall contain either:

(i) Tariff Rules governing the carriage of all types of hazardous cargo; or

(ii) Reference to applicable governing and/or general reference tariffs, as described in § 514.12.

(17) *Green salted hides in foreign commerce.* For foreign commerce, Tariff Rule 17 shall require that:

(i) The shipping weight for purposes of assessing transportation charges on green salted hides shall be either a scale weight or a scale weight minus a deduction which amount and method of computation are specified in the commodity description record or TLI, as referenced by § 514.13(b)(17)(iii); and

(ii) The shipper furnish the common carrier a weighing certificate or dock receipt from an inland common carrier for each shipment of green salted hides at or before the time the shipment is tendered for ocean shipment.

(18) *Returned cargo in foreign commerce.* Where the tariff owner offers the return shipment of refused, damaged or rejected shipments, or exhibits at trade fairs, shows or expositions, to port of origin at the TLI assessed on the original movement, when such TLI is lower

than the prevailing TLI, Tariff Rule 18 shall provide that:

(i) The return of shipment(s) be accomplished within a specific period not to exceed one year;

(ii) The return movement be made over the line of the same common carrier performing the original movement, except that in the case of a conference tariff, return may be made by any member line when the original shipment was carried by a conference member under the conference tariff; and

(iii) A copy of the original bill of lading showing the rate assessed be surrendered to the return common carrier.

(19) *Shippers requests in foreign commerce.* Tariff Rule 19 shall contain clear and complete instructions in accordance with the effective agreement's provisions, stating where and by what method shippers may file their requests and complaints and how they may engage in consultation under section 5(b)(6) of the 1984 Act, together with a sample of the rate request form if one is used or, in lieu thereof, a description of the information necessary for processing the request or complaint.

(20) *Overcharge claims.* Tariff Rule 20 shall contain provisions that conform to the following:

(i) No tariff may limit the filing of overcharge claims with a common carrier for private settlement to a period (beginning with the accrual of the cause of action) ending in less than:

(A) Three years in foreign commerce; or

(B) Two years in domestic offshore commerce.

(ii) The acceptance of any overcharge claim may not be conditioned upon the payment of a fee or charge.

(iii) No tariff may require that overcharge claims based on alleged errors in weight, measurement or description of cargo be filed before the cargo has left the custody of the common carrier.

(iv) Tariff Rule 20 shall also:

(A) Provide that shippers or consignees may file claims for the refund of freight overcharges resulting from errors in weight, measurement, cargo description or tariff application; and

(B) Clearly indicate where and by what method such claims are to be filed with the common carrier and that

such claims may also be filed with the Federal Maritime Commission. At a minimum, Tariff Rule 20 shall contain the following provisions:

(1) Claims for freight rate adjustments filed in writing will be acknowledged by the common carrier within 20 days of receipt by written notice to the claimant of the tariff provisions actually applied and the claimant's rights under the 1916 Act or 1984 Act.

(2) Claims seeking the refund of freight overcharges may be filed in the form of a complaint with the Federal Maritime Commission, Washington, D.C. 20573, pursuant to either:

(i) Section 11(g) of the Shipping Act of 1984 (46 U.S.C. app. 1710) for foreign commerce, and that such claims must be filed within *three years* of the date the cause of action accrued; or

(ii) Section 22 of the Shipping Act, 1916 (46 U.S.C. app. 821) for domestic offshore commerce, and that such claims must be filed within *two years* of the date the cause of action accrues.

(21) *Use of carrier equipment.* Tariff Rule 21 shall contain provisions conforming to the following regulations:

(i) If a carrier or conference provides equipment to shippers, consignees, or inland carriers, or other persons acting as the agent for the person paying the freight charges:

(A) A sample equipment interchange agreement, or the terms and conditions governing the use of said equipment, shall be published in the carrier's or conference's Tariff Rule 21. The sample agreement shall include: the general terms and conditions affecting cost (e.g., maintenance and repair requirements, insurance obligations, pickup or drop off charges and services, such as tracing and replenishing fuel or refrigerant for reefer containers), that govern the use of carrier-provided equipment, including cargo containers, trailers and chassis. It shall also include the standard free time allowed and detention or similar charges assessed. Standard free time and charges shall be included as the last item in the agreement or Tariff Rule 21, as applicable, and shall clearly identify the location and type of equipment to which they apply.

(B) If a carrier or conference does not have a sample equipment interchange agreement, the carrier shall publish its terms and conditions and standard free time and charges in its Tariff Rule 21,

as described in paragraph (b)(21)(i)(A) of this section. In foreign commerce, where a foreign government prohibits the use of a carrier or conference equipment interchange agreement, Tariff Rule 21 shall contain a statement to that effect.

(ii) If a carrier or conference has exceptions to the standard free time and charges, or changes in the terms and conditions which result in changing the free days and/or charges, the party (inland carrier, consignee, or shipper) to which the exception applies, location, type of equipment and free days and charges shall be clearly identified for each exception. The exceptions shall be arranged in alphabetical order of the parties to which the exceptions apply and shall be included in either:

(A) Tariff Rule 21; or

(B) A separate equipment interchange tariff filed by the carrier or conference in accordance with § 514.12(b)(3), in which case Tariff Rule 21 shall identify the separate equipment interchange tariff containing the exceptions. A carrier or conference is not precluded from publishing a separate equipment interchange tariff even though it does not have exceptions to the standard free days and charges.

(22) *Automobile Rates in domestic offshore commerce.* If TLIs for automobiles are published on a volume basis, as described in § 514.13(b)(17)(iv)(B)(1), introductory paragraph, Tariff Rule 22 shall contain:

(i) The cubic measurement for the five most recent model years prescribed by the manufacturer of each applicable particular make or model, arranged in table form with reference to applicable TLIs; and

(ii) A clear and definite description of all other applicable regulations, if not contained in the commodity description record(s).

(23) *Carrier terminal rules and charges.* Tariff Rule 23 of carrier and conference tariffs:

(i) Shall state separately every terminal or other charge and discount and service (including privileges, facilities and services) under the control of the common carrier or conference which is granted or allowed to any shipper, consignee, or passenger, regardless of whether the service results in a charge

Federal Maritime Commission

§ 514.15

or discount separately assessed as an addition to or subtraction from the carrier's basic TLI, in which case it shall be set forth as an algorithm, or is simply included within the basic TLI, without differentiation;

(ii) [Reserved]

(iii) May provide for an amendment, effective upon filing;

(A) Increasing a charge for terminal services, canal tolls or additional items, without the increase being separately stated on the bill of lading, but only if such charge is not under the control of the filing common carrier or conference, which merely acts as a collection agent for the charge, and the agency making such charge to the common carrier or conference increases the charge without notice to the common carrier or conference and is identified in Tariff Rule 23 by name and appropriate tariff number (see § 514.9(b)(20)); and

(B) For domestic offshore commerce, establishing additional terminal facilities for loading or discharging cargo at ports or harbors already served, but only if the rates to be charged at such facilities are the same as those currently applicable to comparable facilities of the carrier at the same port or harbor (see § 514.9(b)(16)(i)(B)).

(24) *Financial responsibility for NVOCCs in foreign commerce and legal agent for service of process.* (i) Every non-vessel-operating common carrier ("NVOCC") shall state in Tariff Rule 24 of its tariffs on file with the Federal Maritime Commission that it has furnished the Commission proof of financial responsibility in the manner and amount required by 46 CFR 583.4 for the payment of any judgment for damages arising from its transportation-related activities under the Shipping Act of 1984, order for reparations issued pursuant to section 11 of the Shipping Act of 1984, or penalty assessed pursuant to section 13 of the Shipping Act of 1984. In Tariff Rule 24, the NVOCC shall state the manner of its financial responsibility; whether it is relying in whole or in part on coverage provided by a group or association of NVOCCs to which it is a member; the name(s) and address(es) of the surety company(ies), insurance company(ies) or guarantor(s) issuing the bond(s), insurance pol-

icy(ies) or guaranty(ies); the bond(s), insurance policy(ies) or guaranty(ies) number(s); and, where applicable, the name and address of the group or association of NVOCCs providing full or partial coverage.

(ii) Every NVOCC in foreign commerce which is not domiciled in the United States shall enter in the first address field provided in each of its Tariff Records under 46 CFR 514.11(b)(8)(ii) the name and address of a person in the United States designated under § 583.5 of this chapter as its legal agent for the service of judicial and administrative process, including subpoenas. Every NVOCC using a group or association of NVOCCs not domiciled in the United States for financial coverage, in whole or in part, pursuant to § 583.4 shall state in its tariff the name and address of the group or association's resident agent for service of judicial and administrative process, including subpoenas. The NVOCC also shall state in Tariff Rule 24 that, in any instance in which the designated legal agent(s) cannot be served because of death, disability or unavailability, the Secretary, Federal Maritime Commission will be deemed to be the NVOCC's legal agent for service of process.

(iii) Service of administrative process, other than subpoenas, may be effected upon the legal agent by mailing a copy of the documents to be served by certified or registered mail, return receipt requested.

(25) *Certification of shipper status in foreign commerce.* If a common carrier adopts a procedure other than those set forth in § 583.7 (b)(1) or (b)(2) of this chapter, for determining whether NVOCCs for whom it wishes to transport cargo have complied with the tariff and bonding requirements of sections 8 and 23 of the 1984 Act, that procedure shall be clearly set forth in Tariff Rule 25 of its tariff.

(26) *Time/volume rates in foreign commerce.* In connection with time/volume rates offered under § 514.13(b)(19)(i), Tariff Rule 26 of common carrier and conference tariffs in foreign commerce shall clearly and accurately:

(i) State all charges, classifications, rules and practices concerning time/volume rates;

(ii) Identify the shipment records which will be maintained to support the rates;

(iii) Describe the method to be used for shippers giving notice of their intention to use a time/volume rate prior to tendering any shipment under the time/volume-rate arrangements; and

(iv) State that:

(A) Once a time/volume rate is accepted by one shipper, it shall remain in effect for the time specified, without amendment; and

(B) Shipper notices and shipment records supporting a time/volume rate will be maintained by any offering carrier or conference for at least five years after any shipper's use of a time/volume rate has ended.

(27) *Loyalty contracts in foreign commerce.* Where the filer intends to use a loyalty contract in foreign commerce:

(i) Tariff Rule 27 shall contain a sample of every loyalty contract, as defined in 46 CFR 514.2, together with regulations which set forth the scope and application of the contract system.

(ii) The use of any sample loyalty contract and applicable regulations filed for inclusion in a tariff under paragraph (b)(27) of this section shall be presumed to be "in conformity with the antitrust laws," within the meaning of section 10(b)(9) of the 1984 Act, if such contract makes reference to a Business Review Letter, issued pursuant to 28 CFR 50.6, indicating no objection to the use of that contract.

(28) *Definitions.* Tariff Rule 28 shall include any filer definitions of technical terms which, however, may not be inconsistent with the 1916 or 1984 Acts or this part.

(29) *Symbols.* Tariff Rule 29 shall include any filer symbols, service codes, etc. and explanations therefor which, however, may not be inconsistent with the those set forth in this part or the "Batch Filing Guide."

(30) *Access to tariff information.* Tariff Rule 30 shall contain a clear and complete description of all costs, conditions and arrangements for public inspection of tariff material, including reasonable provisions for access to emergency tariff(s) under §§ 514.8(k)(1)(iv) and (k)(1)(v).

(31) *Seasonal discontinuance.* (i) Tariff Rule 31 shall contain announcements of

seasonal discontinuance or restoration of service, which shall be filed on not less than ten days' notice, except by special permission under § 514.18. Such announcements shall contain a brief statement announcing the date of discontinuance and/or restoration of service and may include no other tariff matter. The TLIs associated with service discontinuance or restoration shall be amended, expired or filed as applicable, and shall meet all criteria for TLI filings/amendments.

(ii) Tariff Rule 31 of tariffs naming rates, fares or Tariff Rules applicable to all water routes which are closed to navigation during part of a year shall:

(A) Contain provisions governing the handling of shipments which may arrive at the publishing carrier's facilities after the date service is discontinued; and

(B) Expressly provide for the seasonal discontinuance provision's own expiration at the close of the navigation season, or include a rule providing for the discontinuance/restoration of service based on the stated navigation season.

(32) [Reserved]

(33) *Project rates.* Tariff Rule 33 shall contain complete descriptions of all project rates which are stated discounts of other TLI's for given commodities under § 514.13(a)(5)(ii). For domestic offshore carriers, Tariff Rule 33 shall also include a statement that all project rates will cover the carrier's variable costs and contribute to its fixed expenses.

(34) *Terminal Tariffs.* Tariff Rule 34 shall contain the full-text portions of all terminal tariffs filed by marine terminal operators (excluding the Organization Record and Tariff Record, which must be established under § 514.11). Other, mandatory Tariff Rules under this section which are designed for carriers and conferences shall be designated "Not Applicable" or "NA." For logical divisions within the terminal tariff, filers should use subrules, as described in paragraph (a)(4) of this section.

(c) *Optional Tariff Rules.* Tariff Rules numbers 100 and up (to be numbered

Federal Maritime Commission

§ 514.17

consecutively) are available for carrier/conference use.

[57 FR 36271, Aug. 12, 1992, as amended at 58 FR 28, Jan. 4, 1993; 58 FR 5622, Jan. 22, 1993; 58 FR 28790, May 17, 1993; 60 FR 27230, May 23, 1995]

§ 514.16 [Reserved]

§ 514.17 Essential terms of service contracts in foreign commerce.

(a) *General.* (1) A concise statement of the essential terms (ETs) of every initial service contract (which is filed in paper form under § 514.7) and appropriate amendments to ETs resulting from any amendment of the filed service contract, shall be filed with the Commission by authorized persons (see § 514.4(d)(5)) and made available to the general public in electronic tariff format. Unlike most other tariff data, ETs shall be filed largely in full text, with a minimum of database formatting (but with certain other standardization), as set forth in this section. Additionally, ETs are not subject to the algorithm or linkage requirements of § 514.10(d). Filing and maintenance of ETs are accomplished through an electronic essential terms publication (ETP) for each carrier or conference filer, which contains ETs for each of the carrier's or conference's service contracts.

(2) *Cross-references*—(i) *Authority to file:* § 514.4(d)(5).

(ii) *Cancellation:* § 514.4(e)(2).

(iii) *Availability of essential terms:* § 514.7(f).

(iv) *Rejection of service contracts and/or essential terms:* § 514.7(j).

(v) *Modification, correction and cancellation:* § 514.7(k).

(vi) *Assessorials and algorithms:* § 514.10(d)(1).

(b) *Essential terms publication*—(1) *Creation and form.* The ETP is created and maintained by the filer as a separate tariff type (“ET” for “ETP”) with a tariff record and number (see § 514.11(b)). A service-contract filer, either carrier or conference, may have only one ETP for all its ETs. The ETP may also contain matter of general applicability to all ETs contained therein, such as Tariff Rules. The ATFI system will coordinate development of ET search indexes by, for example: ET, service contract

or FMC file number; by commodity name or number; by TLI number; and, by origin or destination of the commodity.

(2) *Reference to/in tariffs of general applicability.* The ETP shall:

(i) Contain reference to each carrier's or conference's tariff of general applicability; and

(ii) Be referenced in each of the carrier's or conference's tariffs of general applicability, where required to be filed under this part.

(c) *Statement(s) of essential terms; general requirements.* (1) Essential terms shall be promptly filed by the appropriate person, in the carrier's or conference's ETP and in the content and tariff format as provided by this part. (The service contract, in paper form, is required to be filed within ten (10) days of the electronic filing of the essential terms under § 514.7(g).)

(2) Essential terms may not:

(i) Be uncertain, vague or ambiguous; or

(ii) Contain any provision permitting modification by the parties other than in full compliance with this part.

(d) *Essential terms; specific requirements*—(1) *ATFI sample screen illustration.* The following ATFI simulated screen illustrates the elements required to be contained in essential terms filings and how they may appear in the ATFI system. The references in brackets in each line are to the subparagraphs of this paragraph which explain the requirements for the fields and the data contained therein. See paragraph (b)(1) of this section for provisions regarding the essential terms publication. On the screen, data above the double line, i.e., down through “Contract Termination,” shall be entered in database format in the special fields provided; data beginning with Mandatory Term No. 3 (“Commodities”) shall be entered in “full-text” format without the application of algorithms under § 514.10(d). However, the mandatory ETs (Nos. 1 to 10) shall bear the appropriate term number and exact mandatory term title, as set forth in this paragraph (and the screen). If the mandatory term does not apply (e.g., No. 7 or No. 8), the filer shall also enter the symbol “NA.”